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Brian Williams, Jennifer Nash,
Monique Hubbard-Pickett, James
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Frank Dreesen, Jerry Howell,
Sonya Carrillo, and Oliver Mora-Rocha*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DONALD ROBIN BARREN,

Plaintiff,

v.

JAMES DZURENDA, *et al.*,

Defendants.

Case No. 2:19-cv-00142-APG-VCF

**DEFENDANTS' MOTION TO
EXTEND TIME TO RESPOND TO
THE AMENDED COMPLAINT
(ECF NO. 9)
(FIRST REQUEST)**

Defendants, Brian Williams, Jennifer Nash, Monique Hubbard-Pickett, James Dzurenda, Michael Fuscarino, Frank Dreesen, Jerry Howell, Sonya Carrillo, and Oliver Mora-Rocha, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Christopher M. Guy, Deputy Attorney General, of the State of Nevada, Office of the Attorney General, request this Court extend the deadline for Defendants to respond to the Complaint from December 28, 2020, to January 27, 2020.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

On May 1, 2020, this Court issued its Screening Order on Amended Complaint.¹ The Court Ordered an Inmate Early Mediation Conference (EMC) be held on October 2, 2020.² Subsequent to the Court's Order setting the EMC, Plaintiff Donald Barren (Barren) was released from prison on August 14, 2020.³ Both parties attended the EMC in good faith, but were unable to settle the case.⁴

The undersigned counsel joined the Office of the Attorney General on November 30, 2020. On December 3, 2020, the undersigned counsel was admitted to practice in U.S. District Court, District Court of Nevada. Since his admission, counsel has recently been assigned the defense duties of this case.⁵

On December 22, 2020, undersigned counsel called Barren to request an extension of time to file a response to the Complaint. However, Barren did not answer. The undersigned counsel left Barren a Voicemail containing the request for an extension.⁶

However, with the holidays upon us, and out of an abundance of caution, Defendants file this motion requesting an extension to respond having made efforts to meet and confer. Defendants currently have until December 28, 2020, to respond to Barren's Amended Complaint.⁷

II. LEGAL ARGUMENT

Under Federal Rules of Civil Procedure Rule 6(b): Extending Time,

When an act may or must be done within a specified time, the court may, for good cause, extend the time:

¹ ECF No. 11.

² ECF No. 17.

³ ECF No. 18.

⁴ ECF No. 22.

⁵ The undersigned counsel has been assigned over 20 cases in varying stages of litigation since December 3, 2020. While counsel has worked diligently and without delay to get up to speed on all these assigned cases, his efforts have been complicated by the Governor's Stay at Home directive, which has significantly reduced access to the Attorney General's office and resources.

⁶ Ex. A (Declaration of defense counsel)

⁷ ECF No. 25.

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires;
or
(B) on motion made after the time has expired if the party failed to act because of excusable neglect.⁸

FRCP 6(b).⁹

Here, there is good cause to extend the time for Defendants to respond. As detailed above, the case has moved forward with little delay. Defendants have acted diligently in their defense of this case. However, Defendants have been unable to complete the response due to several factors: (1) counsel was only recently appointed to defend this matter and thus needs additional time to review the case, (2) due to Governor Sisolak's Stay at Home 2.0 order, counsel has been required to work from home, which reduced access to case files, and (3) due to the upcoming holiday, the Office of the Nevada Attorney General will be closed.

Further, additional time will allow undersigned counsel to confer with the individual defendants to prepare a response. Moreover, undersigned counsel has made efforts to confer with Barren so the motion would be a joint stipulation. However, due to the limited time available, Defendants now move this Court for an extension of time to file a response.

Lastly, Plaintiff will not be prejudiced by this request. He is no longer in NDOC custody and there are no outstanding declaratory relief issues that would require immediate adjudication of the matter or temporally sensitive issues.

In the event that the parties are able to have a substantive telephone call or letter exchange, the undersigned will provide a supplement to the instant motion.

III. CONCLUSION

Good cause exists for granting the extension. Defendants respectfully request 30 days from the current deadline of December 28, 2020. Defendants' request would make the

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⁸ (2) Exceptions. A court must not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b).

⁹ See also Local Rule 6-1

1 deadline to respond to Plaintiff's amended complaint¹⁰ January 27, 2021. There are no
2 other deadlines set that would be affected by this request.

3 DATED this 23rd day of December, 2020.

4 AARON D. FORD
5 Attorney General

6 By: /s/ Christopher M. Guy
7 CHRISTOPHER M. GUY (Bar. No. 15239)
8 Deputy Attorney General

9 *Attorneys for Defendants*

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11 IT IS SO ORDERED.

12 1-8-2021

13 DATED: _____

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16 UNITED STATES MAGISTRATE JUDGE

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¹⁰ ECF No. 9.

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on December 23, 2020, I electronically filed the foregoing **DEFENDANTS' MOTION TO EXTEND TIME TO RESPOND TO THE AMENDED COMPLAINT (ECF NO. 9) (FIRST REQUEST)** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, addressed to the following:

Donald Barren
2737 Webster Street
North Las Vegas, Nevada 89030
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General

EXHIBIT A

Declaration of Counsel

EXHIBIT A

AARON D. FORD
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DONALD ROBIN BARREN,
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Case No. 2:19-cv-00142-APG-VCF

**DECLARATION OF COUNSEL IN
SUPPORT OF DEFENDANTS'
MOTION TO EXTEND TIME TO
RESPOND TO THE AMENDED
COMPLAINT (ECF NO. 9)
(FIRST REQUEST)**

I, Christopher M. Guy, hereby attest that to the best of my knowledge the following statements are true and correct:

1. I am employed as a Deputy Attorney General in the Office of the Nevada Attorney General. I am employed in the Public Safety Division.

2. I represent Defendants in the matter of *Donald Robin Barren v. James Dzurenda, et al.*, Case No. 2:189-cv-00142-APG-VCF.

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3. At approximately 1:53 P.M. on December 22, 2020, I placed a phone call to Plaintiff Donald Barren (Barren) to request an extension to respond to his Amended Complaint (ECF No. 9).

4. However, Barren did not answer. The undersigned counsel then left Barren a voicemail containing the request for an extension.

5. Defendants currently have until December 28, 2020, to respond the Barren's Amended Complaint.

6. Declarant has had limited access to case files since his appointment to this matter due to Governor Sisolak's Stay at Home 2.0 order, which requires a work from home protocol. Further, due to the upcoming holiday, the Office of the Nevada Attorney General will be closed.

7. Under these circumstances, the Declarant has been unable to speak with his clients or with Barren regarding this matter.

Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 23rd day of December, 2020.

AARON D. FORD
Attorney General

By: /s/ Christopher M. Guy
CHRISTOPHER M. GUY (Bar. No. 15239)
Deputy Attorney General

Attorneys for Defendants